

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1971

No. 71-895

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

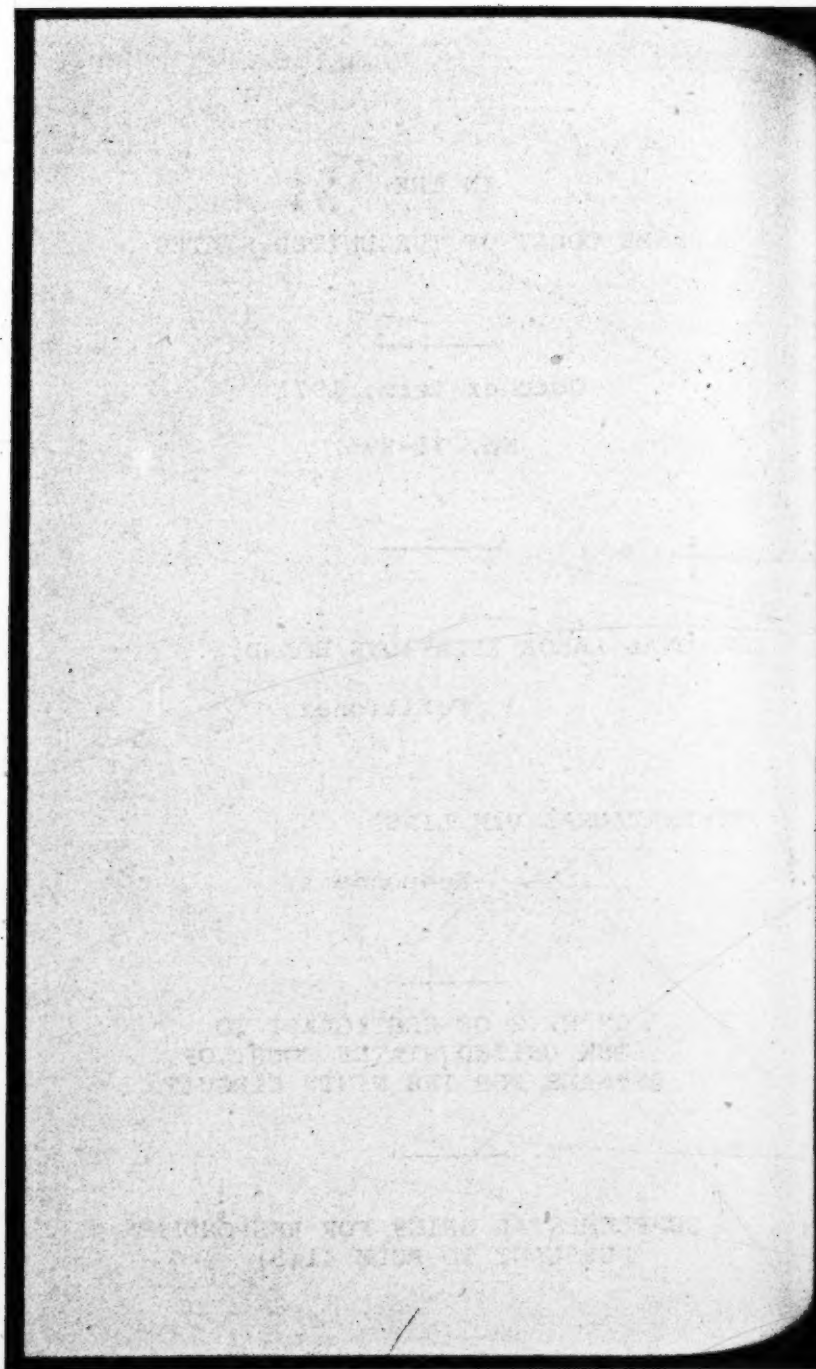
vs.

INTERNATIONAL VAN LINES,

Respondent.

ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

SUPPLEMENTAL BRIEF FOR RESPONDENT
PURSUANT TO RULE 41(5)



In support of the position that Respondent's Answer filed in the nature of a Cross Petition was timely filed and that the questions presented therein are properly before the Court, the following supplemental points and authorities are hereby respectfully submitted pursuant to Rule 41(5) of the Court.

The Board is in error when it characterizes the "opinion" of the Court of Appeals as a "judgment". (Board's Reply Memorandum, page 2). The Circuit Court remanded the case to the Board for further proceedings to determine (1) whether legitimate and substantial business justification existed for not reinstating the four employees and to resolve (2) an ambiguity in the record relating to employee Casillas. Further, the Court of Appeals declined to pass upon the propriety of the bargaining order, stating that, "It will be time enough to do so if the case comes before us again on the Board's petition for enforcement."

The Court below concluded by saying,

"The case is remanded to the Board for the determination required by Part C of this opinion and for modification of the Board's order in accordance with Part A of the opinion" (emphasis added) 448 F.2d 905, at 912, 913.

It is clear then that no final judgment or decree was entered which would start the running of the ninety (90) day period. Rogers v. Hill, 289 U.S. 582; Federal Trade Commission v. Colgate-Palmolive Co., 380 U.S. 374. Cf. Scofield v. NLRB, 394 U.S. 423.

Accordingly, Respondent's Answer, which must be viewed as an Answer and Cross Petition was timely and may be considered by the Court, if the questions presented therein are, as Respondent believes, significant and worthy of consideration.

Dated, October 6, 1972.

Respectfully submitted,

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